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as "a new departure," and "of extraordinary importance," in note in 22 L. R. A. 577. It appears not to have been considered in any other court.

NUISANCES—STORING POWDER—LIABILITY FOR EXPLOSION.—KLEBAUER ET UX. v. WESTERN FUSE & EXPLOSIVES CO., 71 PAC. 617 (CAL.).—A manufacturing company kept in store, powder necessary for its business, and it was exploded by the willful act of another. *Held*, that the keeping of the powder was not necessarily a nuisance, so as to render the company liable in any case to third parties injured by the explosion.

The keeping of explosives near a city has been held a nuisance *per se*. *Cheatham v. Shearon*, 1 Swan 213; *Coal Co. v. Glass*, 34 Ill. App. 364. The contrary has been held in *People v. Sands*, 1 Johns. 78, and with regard to a sparsely settled spot in *Dumesnil v. Dupont*, 18 B. Mon. 800. Whether it is a nuisance *per se* has been held to be a question of fact. *Heeg v. Licht*, 80 N. Y. 579; *Lounsbury v. Foss*, 80 Hun 296. In Pennsylvania a magazine may be a nuisance in a place not thickly settled if it is so situated as to be liable to injure even a few persons. *Appeal of Wier*, 74 Pa. 230; and in South Carolina if an explosion might injure the plaintiff and him alone. *Emory v. Powder Co.*, 22 S. C. 476. In Alabama, to constitute a nuisance, a magazine, wherever situated, must be negligently maintained. *Kinney v. Koopman*, 116 Ala. 310.

PARTNERSHIP NAME—USE BY SURVIVING PARTNER—GOOD WILL.—SLATER v. SLATER, 80 N. Y. SUPP. 363.—*Held*, that no right to use the firm name, except for the purpose of advertising as its successor, passes to the purchaser of the good-will of a partnership dissolved by death; and that the right to continue the business in the firm name does not remain in the surviving partner.

When the firm name is used as a trade-mark simply or the purchaser continues the business as a successor, there is no conflict as to the purchaser's right; in each case the firm name is an asset. *Levy v. Walker*, 10 Ch. Div. 436; *Honie v. Chaney*, 143 Mass. 592; *Caswell v. Hazard*, 121 N. Y. 484; *Lindl., Partn.* 447. But the English courts seem inclined to consider the continued use of a firm name a part of the good will when there is no danger of loss to the original partners; *Levy v. Walker*, 10 Ch. Div. 436; *Webster v. Webster*, 3 Swanst. 490; *Robertson v. Quiddington*, 28 Beav. 536; *Lindl., Partn.* 446; and have even gone so far as to hold that the right to do business in the firm name passed to the surviving partner as a property right. *Lewis v. Langdon*, 7 Simons 421. The decisions on the question in this country are few; but see *Fenn v. Bolles*, 7 Abb. Pr. 202, where the right did not go to surviving partner; and *Blake v. Barnes*, 26 Abb. N. C. 208, and *Mason v. Dawson*, 15 Misc. (N. Y.) 595, where it did.

PERCOLATING WATERS—DIVERSION.—STILLWATER WATER CO. v. FARMER, 93 N. W. 907 (MINN.).—Defendant diverted percolating waters from plaintiff's spring, and conducted them to the city sewer. *Held*, that a landowner may be restrained from thus wantonly wasting percolating waters which would otherwise be appropriated by the adjoining owner for a useful purpose.

A landowner may appropriate all the percolating waters in his soil providing it is done for a useful purpose. But the absolute right to use